

Memorandum



Date: October 19, 2004

To: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

Agenda Item No. 13(E)

From: George H. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess", written over the printed name of George H. Burgess.

Subject: Ordinance Acting Upon April 2004 Small-Scale Amendments to the Comprehensive
Development Master Plan

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance, which provides for the Commission to adopt, adopt with change, not adopt, or deny seven pending April 2004 cycle small-scale applications to amend the Comprehensive Development Master Plan (CDMP) Land Use Plan map. It is recommended that final action be taken on the ordinance at the conclusion of the CDMP public hearing scheduled to begin at 9:30 AM on Friday, November 5, 2004.

BACKGROUND

The attached ordinance provides for action on seven privately filed April 2004-cycle applications requesting small-scale amendments to the CDMP Land Use Plan map (Applications No. 1, 4, 5, 6, 7, 12 and 13). A procedure is provided in the Codified CDMP amendment process for the expedited processing of "Small-Scale" amendments as defined in Section 163.3187(1)(c), Florida Statutes. This procedure authorizes the Board of County Commissioners to take final action on small-scale requests to amend the Land Use Plan Map after a single public hearing without prior review and comment by the Florida Department of Community Affairs (DCA), as is required of standard CDMP amendment proposals.

The general criteria for eligibility of a proposed amendment to be processed as a small-scale amendment is that it involves 10 or fewer acres and, if residential, it allows a density of 10 dwelling units per acre (10 DU/ac) or less. The annual cumulative limit of small-scale amendments is 120 acres in jurisdictions such as Miami-Dade County which contain designated redevelopment and downtown revitalization areas, urban infill areas, transportation concurrency exception areas, and regional activity centers. However, a 60-acre annual limitation applies to areas outside of these specifically designated urban areas. Additionally, outside of these specifically designated areas, the maximum residential density that may be approved is 10 dwelling units per acre.

Thus far in 2004, the Board has adopted two small-scale amendments with a total acreage of 8.27 that are located inside specifically designated urban areas. The Board has also adopted three small-scale amendments with a total acreage of 24.15 that are situated outside specifically designated urban areas. The seven pending April 2004 cycle applications total 33.85 acres. Therefore, based on the above acreage limitations the Board has the ability to approve any or all of these proposed small-scale amendments without prior DCA review.

At the November 5, 2004, public hearing, the Commission could elect to adopt, adopt with change, or not adopt the small-scale amendments. If it does not adopt a small-scale amendment, the Commission may elect, by separate resolution, to transmit it to DCA for review and to take final action in October or November 2004, after State-agency review. Of course, denial or failure to adopt as a small-scale amendment and failure to transmit it to DCA effectively denies approval of the application for this amendment cycle.

ORDINANCE FORMAT

The ordinance follows the same format used in previous CDMP amendment cycles. That is, it contains blank spaces to record your action on each request contained in each application. After the Board adopts individual entries indicating its action on each application, the Board will take action adopting the Ordinance in its entirety, incorporating the foregoing entries. A minimum of seven affirmative votes is required by County Code to amend the CDMP.

HOUSING IMPACT

The impact on housing costs associated with approval of the applications to amend the CDMP Land Use Plan map from residential to commercial uses effected by this Ordinance would be to increase the cost of residential land and, hence, increase housing costs. Because the total acreage involved is very small, the cost increases will not be measurable at this point. However, over time as the incremental reductions in residential development capacity cumulate, the effects will ultimately be observable on average housing costs.

FISCAL IMPACT

The proposed ordinance acting on April 2004 cycle small-scale applications to amend the CDMP will not have a measurable fiscal impact on Miami-Dade County. Additional information on the fiscal impact of all the requests to amend the Land Use Plan map is presented in Chapter 4 of the Department of Planning and Zoning's Initial Recommendations Report, pursuant to Ordinance No. 01-163. This is included in the agenda materials for the November 5, 2004 public hearing addressing all the April 2004 Applications to amend the CDMP, at which final action on this ordinance will be considered.

ECONOMIC ANALYSIS

1. Economic impact of the ordinance on the County's budget:

There will be no impact on the County's budget in terms of Department of Planning and Zoning budgeting, staffing or operating expenses. This ordinance, however, does amend the Comprehensive Development Master Plan (CDMP), which is the County's official guide for managing countywide growth, and development. In this regard, the ordinance may indirectly impact the County's budget through amendments that affect the County's land use patterns and its provision of services and facilities. Capital and operating unit costs for public facilities and services can be lessened through promotion of efficient land use patterns. Higher density contiguous development is relatively more efficiently served than low-density or scattered development. In general, the CDMP is aimed at achieving this result.

2. Economic impact of the ordinance on the private sector:

Approval of the ordinance will have an insignificant impact on the private sector. Certain applications to amend the Land Use Element could increase the value of affected land parcels. In a countywide sense, however, the economic outlook will remain essentially unchanged by enactment of this ordinance.

3. Effect of the ordinance on public or private employment:

Adoption of this ordinance will have no significant impact on projected employment for the County as a whole, or in any statistical subdivision.

4. Costs and benefits, both direct and indirect, of establishing and maintaining the program set forth in the ordinance:

See response to item 1 on page 2.

5. Whether the ordinance is necessary to enable the County to obtain state or federal grants or other financing:


No.

6. Whether another ordinance which is already in existence should be repealed or amended:

No.

7. Whether the creation of a new ordinance is the best method of achieving the benefit derived:

Section 2.116.1, Code of Miami-Dade County, and Section 163.3184(15), Florida Statutes, provide that the CDMP may be amended only by ordinance.



Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: October 19, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 13(E)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☒ No committee review

Approved _____ Mayor

Agenda Item No. 13(E)

Veto _____

10-19-04

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO MIAMI-DADE COUNTY
COMPREHENSIVE DEVELOPMENT MASTER PLAN
ACTING UPON SMALL-SCALE AMENDMENT
APPLICATIONS FILED IN APRIL 2004 CYCLE TO AMEND,
MODIFY, ADD TO OR CHANGE COMPREHENSIVE
DEVELOPMENT MASTER PLAN; PROVIDING
SEVERABILITY, EXCLUSION FROM THE CODE AND AN
EFFECTIVE DATE

WHEREAS, this Board has provided a procedure (codified as Section 2-116.1 of the Code of Miami-Dade County, Florida) to amend, modify, add to or change the Miami-Dade County Comprehensive Development Master Plan (CDMP); and

WHEREAS, Miami-Dade County's procedures reflect and comply with the procedures for adopting or amending local comprehensive plans as set forth in Section 163, Part II, Florida Statutes; and

WHEREAS, fifteen CDMP amendment applications were filed on or before April 30, 2004 and are contained in the document titled "April 2004 Applications to Amend the Comprehensive Development Master Plan" dated June 5, 2004; and

WHEREAS, two additional applications, located in Section 8 of Township 53 South and Range 40 East in the City of Doral, were filed on or before April 30, 2004 and are contained in a document titled "Errata and Supplements Addendum Initial Recommendations April 2004 Applications to Amend the Comprehensive Development Master Plan" dated September 10, 2004; and

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WHEREAS, as a condition of the incorporation approved by the County, Section 9.6 of the City of Doral's Municipal Charter requires that the city's comprehensive plan be consistent with the adopted CDMP as amended from time to time with respect to Section 8, Township 53, Range 40 and accordingly any modification of the land use designation for this section requires modification of the CDMP over which the Board of County Commissioners has jurisdiction; and

WHEREAS, Miami-Dade County's procedures provide for the expedited processing of small-scale amendments as defined in Section 163.3187, F.S.; and

WHEREAS, of the seventeen applications filed for processing during the April 2004 CDMP amendment cycle, seven request expedited adoption, if eligible, as small-scale plan amendments; and

WHEREAS, the Department of Planning and Zoning has published its initial recommendations addressing the referenced Applications on pages I-1 through I-375 in the report titled "Initial Recommendations April 2004 Applications to Amend the Comprehensive Development Master Plan" dated August 25, 2004, and on pages 1-1 through 1-8 in the report titled "Addendum Initial Recommendations April 2004 Applications to Amend the Comprehensive Development Master Plan" dated September 10, 2004; and

WHEREAS, Application No. 12 was partially withdrawn by letter dated and received September 10, 2004; and

WHEREAS, the Community Councils, Planning Advisory Board, and Department of Planning and Zoning have acted in accordance with the referenced State and County procedures and have accepted applications, conducted public hearings and issued recommendations for disposition of the small-scale amendment requests; and

WHEREAS, the Board of County Commissioners can, by ordinance, take final action to Adopt, Adopt With Change, Not Adopt, or Deny requested small-scale amendment applications at the public hearing conducted to address the question of transmittal to the Florida Department of Community Affairs (DCA) of other pending amendment requests; and

WHEREAS, the Board of County Commissioners can, by resolution, transmit to DCA small-scale amendment applications not adopted but not finally denied; and

WHEREAS, the Board of County Commissioners will consider approving a resolution transmitting to the DCA any eligible small-scale amendments that are not adopted but not denied and which this Board desires to further consider after review by DCA; and

WHEREAS, all existing lawful uses and zoning in effect prior to a CDMP amendment are deemed to remain consistent with the CDMP as amended unless the Board of County Commissioners, in conjunction with a particular zoning action, finds such preexisting zoning or uses to be inconsistent with the CDMP based upon a planning study addressing the criteria set forth in the CDMP; and

WHEREAS, the approval of an amendment to the CDMP does not assure favorable action upon any application for zoning or other land use approval but is part of the overall land use policies of the County; and

WHEREAS, any application for zoning or other land use approval involves the application of the County's overall land use policies to the particular request under consideration; and

WHEREAS, the County's overall land use policies include, but are not limited to, the CDMP in its entirety and the County's land development regulations; and

WHEREAS, this Board has conducted the public hearings required by the referenced procedures preparatory to enactment of this ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. All matters set forth in the preamble are found to be true and are hereby incorporated by reference as if set forth verbatim and adopted.

Section 2. This Board hereby desires to take action on the pending small-scale amendment applications filed for review during the April 2004 cycle for amendments, modifications, additions, or changes to the Miami-Dade County Comprehensive Development Master Plan as follows:

Appli- cation Number	Applicant/Representative Location (Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
1	Aventura Village, LLC/Jeffrey Bercow, Esq. and Michael W. Larkin, Esq. North side of NE 179 Street, between Oleta River and West Dixie Highway, approximately 300' west of West Dixie Highway (1.4 Acres) FROM: LOW-MEDIUM DENSITY RESIDENTIAL (5 to 13 DU/AC.) TO: MEDIUM DENSITY RESIDENTIAL (13 to 25 DU/Ac.) Small-Scale Amendment	
4	Nationwide Theatres West Flagler, LLC/Ben Fernandez, Esq. and Graham Penn, Esq. Southwest corner of SW 87 Avenue and West Flagler Street (8.71Acres) FROM: OFFICE/RESIDENTIAL TO: BUSINESS and OFFICE Small-Scale Amendment	
5	SouthTrust Bank/Jeffrey Bercow, Esq. and Graham Penn, Esq. Northwest corner of SW 88 Street (N. Kendall Drive) and SW 149 Avenue (1 Acre) FROM: PARKS AND RECREATION TO: BUSINESS AND OFFICE Small-Scale Amendment	

Appli- cation Number	Applicant/Representative Location (Size) REQUESTED SMALL SCALE AMENDMENTS TO THE CDMP	Action on Small-Scale Amendment
6	BMS Development, LLC / Jeffrey Bercow, Esq. and Michael W. Larkin, Esq. North side of SW 88 Street (N. Kendall Drive) and approximately 640 feet west of SW 162 Avenue (9.18 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS AND OFFICE Small-Scale Amendment	
7	College Park II, LLC/ Simon Ferro, Esq. Southwest corner of SW 117 Avenue and SW 104 Street (9.5 Acres) FROM: LOW-MEDIUM DENSITY RESIDENTIAL (5 to 13 DU/Ac.) TO: BUSINESS AND OFFICE Small-Scale Amendment	
12	Gadinsky Development Co., Inc. / Jeffrey Bercow, Esq. and Melissa Tapanes Llahues, Esq. Northeast corner of SW 200 Street and SW 127 Avenue (2.01 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS and OFFICE Small-Scale Amendment	
13	Numero Uno Properties, Inc./ Felix M. Lasarte, Esq. and Juan J. Mayol, Jr., Esq. North side of SW 288 Street and 660' East of SW 137 Avenue (2.05 Acres) FROM: LOW DENSITY RESIDENTIAL (2.5 to 6.0 DU/Ac.) TO: BUSINESS AND OFFICE Small-Scale Amendment	

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County, Florida.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment, unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board provided, however, that the effective date of any small-scale plan

amendment approved by this ordinance shall be thirty-one (31) days after adoption by this Board (effective date of ordinance). If challenged within thirty (30) days after adoption, the challenged small-scale plan amendment shall not become effective until the Florida Department of Community Affairs or the Administration Commission, respectfully, issues a final order determining the adopted small-scale amendment is in compliance.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

RA6

Prepared by:

CAK

Craig H. Collier